

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**DERRICK A. ARMSTRONG**

**Petitioner,**

**-v-**

**KAREN HOGSTEN, Warden, et al.,**

**Respondents.**

**Case No. C-3:10-cv-275**

**Judge Thomas M. Rose  
Magistrate Judge Sharon L. Ovington**

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**ENTRY AND ORDER OVERRULING ARMSTRONG'S OBJECTIONS  
(Doc. #5) TO THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATIONS (Doc. #3) IN ITS ENTIRETY;  
DENYING ARMSTRONG'S PETITION FOR A WRIT OF HABEAS  
CORPUS; DENYING ARMSTRONG'S PETITION FOR A WRIT OF  
MANDAMUS; DENYING ARMSTRONG'S MOTION TO EXPAND THE  
RECORD AND TERMINATING THIS CASE**

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This matter comes before the Court pursuant to Petitioner Derrick A Armstrong's ("Armstrong's") Objections (doc. #5) to Magistrate Judge Sharon L. Ovington's Report and Recommendations (doc. #3). Upon review, as required by Rule 4 of the Rules Governing § 2254 cases,<sup>1</sup> the Magistrate Judge recommends that Armstrong's Petition for a Writ of Habeas Corpus be dismissed, that Armstrong's Petition for a Writ of Mandamus be denied and that Armstrong's Motion To Expand the Record be denied.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Armstrong's Objections to the Magistrate Judge's Report and Recommendations are

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<sup>1</sup>Armstrong brings his Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241. Rule 4 of the Rules Governing § 2254 cases applies in this § 2241 case.

not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Armstrong's Petition for a Writ of Habeas Corpus was given preliminary consideration as required by Rule 4 of the Rules Governing § 2254 Cases. Pursuant to this consideration, Armstrong's Petition is dismissed because his federal constitutional claims plainly lack merit. Armstrong's Petition for a Writ of Mandamus is unwarranted because his constitutional claims lack merit. Finally, Armstrong's Motion To Expand the Record is denied because the evidence he wishes to add is unneeded or redundant.

As asserted by Armstrong, it appears that Common Pleas Judge Michael Hall and not Common Pleas Judge Michael Tucker signed the Amended Termination Entry. However, who signed the Amended Termination Entry is not relevant to any of the above findings. Finally, The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

**DONE** and **ORDERED** in Dayton, Ohio, this Nineteenth Day of October, 2010.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record  
Derrick A. Armstrong at his last address of record